

## **§ 1450.8**

### **§ 1450.8 Payments not subject to claims.**

(a) Subject to part 1403 of this chapter, any payment or portion of the payment due any person or legal entity under this part will be allowed without regard to questions of title under State law, and without regard to any claim or lien in favor of any creditor, except agencies of the U.S. Government.

(b) [Reserved]

### **§ 1450.9 Assignments.**

(a) Participants may assign the right to receive cash payments under BCAP, in whole or in part, as provided in part 1404 of this chapter.

(b) [Reserved]

### **§ 1450.10 Appeals.**

(a) Except as provided in paragraph (b) of this section, a person or legal entity applying for participation may appeal or request reconsideration of an adverse determination in accordance with the administrative appeal regulations at parts 11 and 780 of this title.

(b) Determinations by the Natural Resources Conservation Service may be appealed in accordance with procedures established under part 614 of this title or otherwise established by the Natural Resources Conservation Service.

### **§ 1450.11 Scheme or device.**

(a) If CCC determines that a person or legal entity has employed a scheme or device to defeat the purposes of this part, or any part, of any USDA program, payment otherwise due or paid such person or legal entity during the applicable period may be required to be refunded, with interest calculated from the date of disbursement of the funds by CCC, as determined appropriate by CCC.

(b) A scheme or device includes, but is not limited to, coercion, fraud, misrepresentation, depriving any other person or legal entity of any payments, or obtaining a payment that otherwise would not be payable.

(c) A new owner or operator or tenant of land subject to this part who succeeds to the contract responsibilities must report in writing to CCC any interest of any kind in the land subject to this part that is retained by a previous participant. Such interest may

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include a present, future, or conditional interest, reversionary interest, or any option, future or present, on such land, and any interest of any lender in such land where the lender has, will, or can legally obtain, a right of occupancy to such land or an interest in the equity in such land other than an interest in the appreciation in the value of such land occurring after the loan was made. Failure to fully disclose such interest will be considered a scheme or device under this section.

### **§ 1450.12 Filing of false claims.**

(a) If CCC determines that any participant has knowingly supplied false information or has knowingly filed a false claim, such participant will be ineligible for payments under this part with respect to the fiscal year in which the false information or claim was filed and the contract may be terminated, in which case CCC may demand a full refund of all prior payments.

(b) False information or false claims include, but are not limited to, claims for payment for practices that do not comply with the conservation plan, forest stewardship plan, or equivalent plan. Any amounts paid under these circumstances must be refunded to CCC, together with interest as determined by CCC, and any amounts otherwise due the participant will be withheld.

(c) The remedies provided for in this section will be in addition to any other remedy available to CCC and in addition to any criminal penalty or any other remedy available to the United States.

### **§ 1450.13 Miscellaneous.**

(a) Except as otherwise provided in this part, in the case of death, incompetency, or disappearance of any participant, any payments due under this part may be paid to the participant's successor(s) in accordance with part 707 of this title.

(b) Unless otherwise specified in this part, payments under this part will be subject to the compliance requirements of part 12 of this title concerning highly erodible land and wetland conservation and payments.

(c) Any remedies permitted CCC under this part will be in addition to

any other remedy, including, but not limited to, criminal remedies or actions for damages in favor of CCC, or the United States as may be permitted by law.

(d) Absent a scheme or device to defeat the purposes of BCAP, when an owner loses control of BCAP acreage enrolled under subpart C of this part due to foreclosure and the new owner chooses not to continue the contract in accordance with §1450.215 refunds will not be required from any participant on the contract to the extent that the Deputy Administrator determines that forgiving such repayment is appropriate in order to provide fair and equitable treatment.

### Subpart B—Matching Payments

#### § 1450.100 General.

(a) A person or legal entity with the right to collect or harvest eligible material for the sale and delivery of such eligible material to a qualified biomass conversion facility, may be eligible for payment under the provisions of this subpart.

(b) [Reserved]

#### § 1450.101 Qualified biomass conversion facility.

(a) To be considered a qualified biomass conversion facility, a biomass conversion facility must enter into an agreement with CCC and must:

(1) Meet all applicable regulatory and permitting requirements by applicable Federal, State, or local authorities;

(2) Agree in writing to:

(i) Maintain accurate records of all eligible material purchases and related documents regardless of whether matching payments will be sought by the seller; and

(ii) Make available at one place and at all reasonable times for examination by representatives of USDA, all books, papers, records, contracts, scale tickets, settlement sheets, invoices, written price quotations, or other documents related to BCAP for not less than 3 years after the date that eligible material was delivered to the qualified biomass conversion facility;

(iii) Clearly indicate the actual tonnage delivered on the scale ticket or

equivalent to be provided to the eligible material owner;

(iv) Calculate a total dry ton weight equivalent of the actual tonnage delivered and provide that measurement to the eligible material owner;

(v) Use commercial weight scales that are certified for accuracy by applicable State or local authorities and accurate moisture measurement equipment to determine the dry ton weight equivalent of actual tonnage delivered;

(vi) Pay fair market value for eligible material regardless of whether the seller has applied for or receives a matching payment authorized by this subpart.

(b) For a qualified biomass conversion facility, CCC can:

(1) Periodically inform the public that payments may be available for deliveries of eligible material to such qualified biomass conversion facility;

(2) Maintain a listing of qualified biomass conversion facilities for general public access and distribution that may include general information about the facility and its eligible material needs; and

(3) Suspend, terminate, or take other actions as appropriate when CCC determines a qualified biomass conversion facility fails to comply with the agreement.

#### § 1450.102 Eligible material owner.

(a) In order to be eligible for a payment under this subpart, a person or legal entity must:

(1) Be a producer of an eligible crop that is produced on contract acreage authorized by subpart C of this part; or

(2) Have the right to collect or harvest eligible material and such person may only receive payment if the risk of loss for the material transferred to that person occurred prior to the time the payment is made that will be used to determine the matching payment that is requested under this subpart; and

(3) Certify that the eligible material for which a payment may be issued according to §1450.106 has been harvested according to a conservation plan, forest stewardship plan, or equivalent plan, and, if woody eligible material collected and harvested on land other than contract acreage, are byproducts